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NO FEE – GOV’T CODE §6103

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF LOS ANGELES, CENTRAL DISTRICT

10  
11 THE PEOPLE OF THE STATE OF CALIFORNIA,

CASE NO.:

12 Plaintiff,

13 vs.  
14  
15 COMPLAINT FOR ABATEMENT  
16 MARTINE RODARTE, an individual; LUZ  
17 Defendants.

18  
19 [HEALTH & SAFETY CODE SECTION  
20 11570, *ET SEQ.*; CIVIL CODE  
21 SECTION 3479, *ET SEQ.*]  
22  
23 (Unlimited Action)

24 PLAINTIFF, THE PEOPLE OF THE STATE OF CALIFORNIA, alleges as follows:

25 I. INTRODUCTION

26 1. This action (“Action”) is brought and prosecuted by Plaintiff, the People of the  
27 State of California (the “People”), for the purpose of abating, preventing and enjoining a gang  
28 and narcotics-related public nuisance that exists at a Lincoln Heights single family dwelling  
located at 1816 Hancock Street, Los Angeles CA 90031 (the “Property”). The Action is  
brought pursuant to the Narcotics Abatement Law (“NAL”), California Health and Safety Code  
section 11570, *et seq.* and the Public Nuisance Law (“PNL”), Civil Code sections 3479-3480.  
The Property is within 541 feet of Lincoln Park which has a children’s playground, recreation  
center, skate park, pond, basketball courts, and baseball and soccer fields.

1       2. The Property, located in the Los Angeles Police Department's ("LAPD")  
2 Hollenbeck Division, has been since 2017, and continues to be, a narcotics nuisance where  
3 the sale of heroin and methamphetamine takes place on a regular and continuous basis to  
4 drug users who go to the Property to purchase and use illegal drugs. Additionally, the  
5 Property has, and continues to have, a well-known reputation in the surrounding community  
6 and with LAPD as a major "hangout" location of the El Sereno and Lincoln Heights criminal  
7 street gangs. It is a place where gang members go to use and sell narcotics, store stolen  
8 property, and conduct other crimes. The Property is a refuge from police for gang members  
9 who live and loiter at the Property to use and sell drugs. A murder occurred at the Property  
10 two years ago in which a victim was brutally struck on the head with a brick, and a glass pipe  
11 with methamphetamine residue was found nearby. Over the past year-and-a-half law  
12 enforcement has made seven arrests at or connected to the Property, including for narcotics  
13 sales and receiving stolen property.

14      3. Defendant Irene Louise Rodarte ("Defendant I. Rodarte"), a 72-year-old woman,  
15 has owned the Property since at least April 2012. Defendant I. Rodarte's sons, Luz Claudio  
16 Rodarte, Jr. ("Defendant L. Rodarte"), age 53, and Enrique Martine Rodarte ("Defendant E.  
17 Rodarte"), age 52, are El Sereno gang members. L. Rodarte has lived at the Property since  
18 at least 2013, sells drugs at the Property and allows other gang members and their associates  
19 to congregate at the Property and sell and use narcotics there. E. Rodarte has lived at the  
20 Property since at least 2012 and also allows gang members and their associates to  
21 congregate at the Property and sell and use narcotics there. On April 22, 2019, LAPD served  
22 a narcotics search warrant at the Property and recovered approximately 2.24 gross grams of  
23 methamphetamine from L. Rodarte's bedroom and 4.94 gross grams from L. Rodarte's vest  
24 pocket. Additional methamphetamine and narcotics paraphernalia was recovered from inside  
25 a recreational vehicle parked on the Property. L. Rodarte was arrested for sales of a  
26 controlled substance and maintaining a location where drugs are being sold as narcotics were  
27 recovered from his person and bedroom. E. Rodarte was arrested for two outstanding  
28 warrants.

1       4. Plaintiff is filing this lawsuit in an effort to protect public safety. The surrounding  
2 community cannot be expected to perpetually endure this ongoing dangerous activity. This  
3 nuisance abatement prosecution is intended to bring the unacceptable state of affairs at the  
4 Property to a halt; to make the Property inhospitable to the gang members, drug dealers and  
5 buyers who now freely use it to deal and use narcotics; and to make the Property safe for  
6 people in the area.

## **II. THE PARTIES AND THE PROPERTY**

**A. Plaintiff**

9       5. Plaintiff, the People, is the sovereign power of the State of California designated  
10 in California Health and Safety Code section 11571 and Code of Civil Procedure section 731  
11 to be the complaining party in actions brought to abate, enjoin, and penalize public narcotics  
12 nuisances.

## B. The Defendants

14       6.     Defendant I. Rodarte is the owner of the Property and has been since at least  
15 April 2012. Plaintiff is informed and believes and thereon alleges that Defendant I. Rodarte  
16 resides at the Property.

17       7.     Defendant L. Rodarte has lived at the Property at least since 2013. Defendant  
18 L. Rodarte has four felony convictions and 8 misdemeanor convictions for the crimes of  
19 burglary, receiving stolen property, possession of narcotics, domestic violence, and battery.

20       8.     Defendant E. Rodarte has lived at the Property at least since 2012. Defendant  
21     E. Rodarte has a conviction for contempt of court.

22       9.      The true names and capacities of defendants sued herein as Does 1 through  
23 50, inclusive, are unknown to Plaintiff, who therefore sues said defendants by such fictitious  
24 names. When the true names and capacities of said defendants have been ascertained,  
25 Plaintiff will seek leave of Court to amend this complaint and to insert in lieu of such fictitious  
26 names the true names and capacities of said fictitiously named defendants.

1           C.     The Property

2       10.   The Property is a single family dwelling located at 1816 Hancock Street, Los  
3   Angeles, CA 90031.<sup>1</sup> It is a three bedroom, approximately 968 square foot, one-story home  
4   that sits at the end of a block of other single family homes. Numerous old bicycles and refuse  
5   litter the front yard of the Property. Two older model recreational vehicles are parked in the  
6   front yard of the Property.

7           III.    THE NARCOTICS ABATEMENT LAW

8       11.   The abatement of a nuisance is a long-established and well-recognized exercise  
9   of the state's police power. (*People v. Barbiere* (1917) 33 Cal.App. 770, 775; *People ex rel.*  
10   *Hicks v. Sarong Gals* (1974) 42 Cal.App.3d 556, 563.) Since its enactment in 1972, the  
11   principal purpose of the NAL (Health & Saf. Code, § 11570, *et seq.*) is the abatement of  
12   buildings and places "used for the purpose of unlawfully selling, serving, storing, keeping,  
13   manufacturing, or giving away any controlled substance, precursor, or analog specified in this  
14   division . . ." (Health & Saf. Code, § 11570).

15      12.   The NAL provides that every building or place used for the purpose of unlawfully  
16   selling, serving, storing, keeping, manufacturing, or giving away any controlled substance,  
17   precursor, or analog *inter alia*, "is a nuisance which **shall** be enjoined, abated, and  
18   prevented . . . whether it is a public or private nuisance." (Health & Saf. Code, § 11570  
19   (emphasis added); *People ex rel Lungren v. Peron* (1997) 59 Cal.App.4th 1383, 1389; *Lew v.*  
20   *Superior Court* (1993) 20 Cal.App.4th 866, 870-871.)

21      13.   Health and Safety Code section 11571 authorizes a city attorney to bring an  
22   action to abate, prevent and perpetually enjoin such nuisances. It provides in relevant part:  
23   "Whenever there is reason to believe that a nuisance as described in Section 11570 is kept,  
24   maintained, or exists in any county, the district attorney of the county, or the city attorney of  
25   any incorporated city or of any city and county, in the name of the people, may . . . maintain  
26   an action to abate and prevent the nuisance and perpetually to enjoin the person conducting

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28      <sup>1</sup> The Property's legal description is "Those portions of Lots 2, 3 & 4 of the Hancock Street Tract, in the City of  
Los Angeles, County of Los Angeles, State of California, as per map recorded in Book 5, page 6 of maps in the  
office of the County Recorder of said County," with Assessor's Parcel Number 5210-025-020.

1 or maintaining it, and the owner, lessee, or agent of the building or place in or upon which the  
2 nuisance exists from directly or indirectly maintaining or permitting the nuisance.”

3       14. Health and Safety Code section 11573(a) provides that: “If the existence of the  
4 nuisance is shown in the action to the satisfaction of the court or judge, either by verified  
5 complaint or affidavit, the court or judge **shall** allow a temporary restraining order or injunction  
6 to abate and prevent the continuance or recurrence of the nuisance.” (Emphasis added.) In  
7 addition, Health and Safety Code section 11581 provides, as an additional remedy, for the  
8 removal and sale of all fixtures and movable property on the premises used in aiding or  
9 abetting the nuisance and for the closure of the building for up to one year.

#### 10                  IV. THE PUBLIC NUISANCE LAW

11       15. “Abatement of nuisances is a long established and well recognized exercise of  
12 the state's police power.” (*People ex rel. Hicks v. Sarong Gals* (1974) 42 Cal.App.3d 556, 563;  
13 *People ex rel. Bradford v. Barbiere* (1917) 33 Cal.App. 770, 775-778.) Civil Code section 3479  
14 defines a nuisance as “[a]nything which is injurious to health, including, but not limited to, the  
15 illegal sale of controlled substances, or is indecent or offensive to the senses, or an  
16 obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life  
17 or property . . . .” (*Bakersfield v. Miller* (1966) 64 Cal.2d 93, 99 [“The Legislature has defined  
18 in general terms the word ‘nuisance’ in Civil Code section 3479”].)

19       16. Civil Code section 3480 defines a public nuisance as “one which affects at the  
20 same time an entire community or neighborhood, or any considerable number of persons,  
21 although the extent of the annoyance or damage inflicted upon individuals may be unequal.”

22       17. In particular, drug dealing, loitering, consumption of alcohol and illegal drugs,  
23 and boisterous conduct which creates a hooligan-like “atmosphere” constitutes a public  
24 nuisance. (*People ex rel. Gallo v. Acuna* (1997) 14 Cal.4th 1090, 1120.)

25       18. Under Civil Code section 3491, “The remedies against a public nuisance are:  
26 1. Indictment or information; 2. A civil action; or, 3. Abatement.” “An abatement of a nuisance  
27 is accomplished by a court of equity by means of an injunction proper and suitable to the facts  
28 of each case.” (*Sullivan v. Royer* (1887) 72 Cal. 248, 249.)

1       19. Code of Civil Procedure section 731 authorizes a city attorney to bring an action  
2 to enjoin or abate a public nuisance. It provides, in pertinent part, "A civil action may be  
3 brought in the name of the people of the State of California to abate a public nuisance . . . by  
4 the city attorney of any town or city in which the nuisance exists." (*Ibid.*)

5           **V. FIRST CAUSE OF ACTION FOR NARCOTICS ABATEMENT**

6           **[Health and Safety Code Section 11570, et seq. --**

7           **Against Defendants and DOES 1 through 50]**

8       20. Plaintiff hereby incorporates by reference paragraphs 1 through 19 of this  
9 Complaint and makes them part of the First Cause of Action, as if fully set forth herein.

10      21. Since at least 2017, the Property has been, and is *currently* being used for the  
11 purposes of unlawfully selling, serving, storing, keeping, manufacturing or giving away  
12 controlled substances in violation of Health and Safety Code section 11570, et seq. The  
13 general reputation of the Property in the community and amongst law enforcement is that it is  
14 a location where the sale of methamphetamine and heroin and other controlled substances  
15 takes place on an open and regular basis by residents, gang members and/or others.

16      22. Defendants, and Does 1 through 50, are responsible for conducting,  
17 maintaining, and/or directly or indirectly permitting the nuisance as alleged herein. Plaintiff  
18 has no plain, speedy and adequate remedy at law, and unless Defendants, and Does 1  
19 through 50, are restrained and enjoined by order of this Court, they will continue to use,  
20 occupy and maintain, and/or to aid, abet or permit, directly or indirectly, the use, occupation  
21 and maintenance of the Property, together with the fixtures and appurtenances located  
22 therein, for the nuisance complained of herein, to the great and irreparable damage of the  
23 public and in violation of California law.

24           **VI. SECOND CAUSE OF ACTION FOR PUBLIC NUISANCE**

25           **[Civil Code Section 3479, et seq. --**

26           **Against Defendants and DOES 1 through 50]**

27      23. Plaintiff incorporates by reference Paragraphs 1 through 22 of this Complaint  
28 and makes them part of this Second Cause of Action as though fully set forth herein.

1       24. Since at least 2017 and continuing through the present, Defendants and DOES  
2       1 through 50 have owned, operated, managed, and used, and/or directly or indirectly  
3       permitted to be occupied and used, the Property in such a manner as to constitute a public  
4       nuisance in accordance with Civil Code sections 3479 and 3480. The public nuisance, as  
5       described herein, is injurious to health, indecent or offensive to the senses, and/or an  
6       obstruction to the free use of property, so as to substantially and unreasonably interfere with  
7       the comfortable enjoyment of life or property by those persons living on the Property and in  
8       the surrounding community. The public nuisance at the Property consists of, but is not limited  
9       to, a murder; ongoing narcotics use and sales; the threatening and disorderly presence of  
10      gang members; and stolen property being brought to and stored there.

11        25. Defendants, and DOES 1 through 50, in owning, conducting, maintaining, and/or  
12 permitting the use of the Property, directly or indirectly, as a public nuisance and failing to  
13 take reasonable steps to prevent or abate the ongoing nuisance, and as a result of this failure  
14 and mismanagement of the Property, have caused and/or contributed to a serious threat to  
15 the general health, safety, and welfare of persons in the surrounding community.

16       26. Unless Defendants, and DOES 1 through 50, are restrained and enjoined by  
17 order of this Court, they will continue to use, occupy, and maintain, and to aid, abet, or permit,  
18 directly or indirectly, the use, occupation, and maintenance of the Property, together with the  
19 fixtures and appurtenances located therein, for the purpose complained of herein, to the great  
20 and irreparable damage of Plaintiff and in violation of California law.

## **PRAYER**

22 WHEREFORE, PLAINTIFF PRAYS THAT THIS COURT ORDER, ADJUDGE AND  
23 DECREE AS FOLLOWS:

## 24 AS TO THE FIRST CAUSE OF ACTION

25       1. That Defendants, Does 1 through 50, and the Property, be declared in violation  
26 of Health and Safety Code section 11570, et seq.

27        2. That the Property, together with the fixtures and moveable property therein and  
28 thereon, be found to constitute a public nuisance and be permanently abated as such in

1 accordance with Section 11581 of the California Health and Safety Code.

2       3. That the Court grant a preliminary injunction, permanent injunction and order of  
3 abatement in accordance with Section 11570, *et. seq.*, of the California Health and Safety  
4 Code, enjoining and restraining each Defendant and their agents, officers, employees and  
5 anyone acting on their behalf, from unlawfully selling, serving, storing, keeping,  
6 manufacturing, or giving away controlled substances on the Property, and/or directly or  
7 indirectly maintaining or permitting such nuisance activity.

8       4. That the Court order physical and managerial improvements to the Property in  
9 accordance with California Health and Safety Code section 11573.5, and such orders as are  
10 otherwise appropriate, to remedy the nuisance on the Property and enhance the abatement  
11 process, including but not limited to, a prohibition on Defendants L. Rodarte and E. Rodarte's  
12 presence at or within 1000 feet of the Property at any time, for any reason; prohibiting known  
13 narcotics users and dealers from accessing the Property; and strict limitations on who else  
14 may be present on the Property at all times.

15       5. That as part of the Judgment, an Order of Abatement be issued, and that the  
16 Property be closed for a period of one year, not to be used for any purpose, and be under the  
17 control and custody of this Court for said period of time; or, in the alternative, if the Court  
18 deems such closure to be unduly harmful to the community, that Defendants, and Does 1  
19 through 50, pay an amount of damages equal to the fair market rental value of the Property  
20 for one year to the City or County in whose jurisdiction the nuisance is located in accordance  
21 with Health and Safety Code section 11581 subdivision (c)(1).

22       6. That Defendants, and Does 1 through 50, each be assessed a civil penalty in an  
23 amount not to exceed twenty-five thousand dollars (\$25,000.00).

24       7. That all fixtures and moveable property used in conducting, maintaining, aiding or  
25 abetting the nuisance at the Property be removed by the LAPD and sold in the manner  
26 provided for the sale of chattels under execution. Said fixtures and property shall be  
27 inventoried and a list prepared and filed with this Court.

28

1       8. That there shall be excepted from said sale, such property to which title is  
2 established in some third party not a defendant, nor agent, officer, employee or servant of any  
3 defendant in this proceeding.

4       9. That the proceeds from said sale be deposited with this Court for payment of the  
5 fees and costs of sale. Such costs may occur in closing said property and keeping it closed,  
6 removal of said property, and Plaintiff's costs in the Action, including attorneys' fees, and such  
7 other costs as the Court shall deem proper.

8       10. That if the proceeds of the sale do not fully discharge all such costs, fees and  
9 allowances, the Property shall also be sold under execution issued upon the order of the  
10 Court or judge and the proceeds of such sale shall be applied in a like manner. That any  
11 excess monies remaining after payment of approved costs shall be delivered to the owner of  
12 said property. Ownership shall be established to the satisfaction of this Court.

13       11. That Defendants, Does 1 through 50, and any agents, trustees, officers,  
14 employees and anyone acting on their behalf, and their heirs and assignees, be perpetually  
15 enjoined from transferring, conveying, or encumbering any portion of the Property, for  
16 consideration or otherwise, without first obtaining the Court's prior approval.

17       12. That Defendants, and Does 1 through 50, be ordered to immediately notify any  
18 transferees, purchasers, commercial lessees, or other successors in interest to the subject  
19 Property of the existence and application of any temporary restraining order, preliminary  
20 injunction, or permanent injunction to all prospective transferees, purchasers, commercial  
21 lessees, or other successors in interest, *before* entering into any agreement to sell, lease or  
22 transfer the Property, for consideration or otherwise, all or any portion of the Property that is  
23 the subject of this Action.

24       13. That Defendants, and Does 1 through 50, be ordered to immediately give a  
25 complete, legible copy of any temporary restraining order and preliminary and permanent  
26 injunctions to all prospective transferees, purchasers, lessees, or other successors in interest  
27 to the Property.

1       14. That Defendants, and Does 1 through 50, be ordered to immediately request and  
2 procure signatures from all prospective transferees, purchasers, lessees, or other successors  
3 in interest to the subject Property, which acknowledges his/her respective receipt of a  
4 complete, legible copy of any temporary restraining order, preliminary and permanent  
5 injunction, at least 30 days prior to the close of escrow, and deliver a copy of such  
6 acknowledgment to the Los Angeles City Attorney's Office, c/o Deputy City Attorney Jennifer  
7 Varela or her designee.

8       15. That Plaintiff recover the costs of this Action, including law enforcement  
9 investigative costs and any fees, including attorneys' fees, authorized by law, not to exceed  
10 \$1,000,000.00, from Defendants and Does 1 through 50.

11       AS TO THE SECOND CAUSE OF ACTION

12       1. That the Property, together with the fixtures and moveable property therein and  
13 thereon, be declared a public nuisance and be permanently abated as such in accordance  
14 with Civil Code section 3491.

15       2. That each Defendant and their agents, officers, employees and anyone acting  
16 on their behalf, and their heirs and assignees, be preliminarily and perpetually enjoined from  
17 operating, conducting, using, occupying, or in any way permitting the use of the Property as a  
18 public nuisance. Such orders should include, but not be limited to physical and managerial  
19 improvements to the Property, stay away orders for persons who have contributed to the  
20 nuisance at the Property, including Defendants L. Rodarte and E. Rodarte, and such other  
21 orders as are appropriate to remedy the nuisance on the Property and enhance the  
22 abatement process.

23       3. Such costs as may occur in abating said nuisance at the Property and such  
24 other costs as the Court shall deem just and proper.

25       4. That Plaintiff be granted such other and further relief as the Court deems just  
26 and proper, including closure and/or demolition of the Property.

27  
28

**AS TO ALL CAUSES OF ACTION**

2       1. That Plaintiff recover the amount of the filing fees and the amount of the fee for  
3 the service of process or notices which would have been paid but for Government Code  
4 section 6103.5, designating it as such. The fees may, at the Court's discretion, include the  
5 amount of the fees for certifying and preparing transcripts.

6           2. That Plaintiff be granted such other and further relief as the Court deems just  
7 and proper.

DATED: May 22, 2019

Respectfully submitted,

MICHAEL N. FEUER, City Attorney  
JONATHAN CRISTALL, Supervising Assist. City Attorney

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